

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Kevin & Cynthia Stenzel
DOCKET NO.: 06-00212.001-F-1
PARCEL NO.: 04-11-200-021

The parties of record before the Property Tax Appeal Board are Kevin & Cynthia Stenzel, the appellants, and the Winnebago County Board of Review.

The subject property consists of 10.24-acre parcel that is improved with a 20 year-old, one-story frame dwelling that contains 1,680 square feet of living area. Features of the home include central air-conditioning, a 440 square foot garage and a full basement that is partially finished. The appellants' evidence also refers to a barn, but no description was provided. The subject is located in South Beloit, Roscoe Township, Winnebago County.

The appellants submitted evidence to the Property Tax Appeal Board claiming portions of the subject property should be classified and assessed as farmland. In support of this contention, the appellants submitted a letter, several photographs of portions of the subject, an aerial photograph of the entire property, a soil map and several receipts for various items. In their letter dated January 23, 2007, the appellants claimed they planted four acres in prairie grass "a few years back" to establish a habitat for local wildlife. After meeting with the township assessor regarding the various uses to which the subject has been put, the appellants killed the prairie grass and planted winter wheat on the four-acre portion of the subject. In support of this statement, the appellants submitted a letter from Chuck Hutchins dated December 14, 2006 in which Hutchins stated he planted wheat "on the back portion" of the subject property on November 10, 2006. The amount of acreage planted was not stated in the letter. The appellants also submitted a copy of a receipt for \$138.95 for wheat seed sold to Hutchins. The appellants' letter indicated they intend to plant alfalfa on the

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Winnebago County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	26,616
IMPR.:	\$	42,552
TOTAL:	\$	69,168

Subject only to the State multiplier as applicable.

four-acre portion of the subject in 2007 after harvesting the wheat.

The appellants' letter also claimed they had not yet finished their two-acre pasture, but had set all the posts, installed gates and hired a contractor to finish stretching the fence. The appellants intend to raise elk in the pasture area. They submitted a receipt indicating they paid a deposit of \$500 dated December 12, 2006 for one bull and two cow elk, with the balance to be paid on delivery. The appellants' January 23, 2007 letter further stated they have a half-acre pen in which they intend to raise whitetail deer. The letter also claimed they have a $\frac{3}{4}$ -acre pond that is almost four years old and is stocked with bluegill, which they plan to start selling "this summer" (presumably, the summer of 2007). Finally, the appellants' letter claimed they have a barn which is used to store hay, feed and equipment, along with facilities for bottle raising fawns. No age, size or exterior construction information was provided for the barn. The appellants submitted no evidence demonstrating any portion of the subject had been farmed in the years 2004 and 2005. Based on this evidence, the appellants contend four acres of the subject should be classified and taxed as tillable land, 2.25 acres is permanent pasture, one acre is woodlands, one acre is wasteland, one acre is a homesite and one acre is "other", for a total of 10.25 acres. The appellants requested the subject's total assessment be reduced to \$46,806, comprised of a farmland assessment of \$292, a homesite assessment of \$3,962 and an improvement assessment of \$42,552.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$69,168 was disclosed. In support of the subject's assessment, the board of review submitted a letter prepared by the township assessor dated October 31, 2006. The board of review also submitted a copy of a letter to the appellants from the township assessor that was dated July 20, 2006. The board of review also submitted a copy of a letter dated October 5, 2006 from the appellants to the board of review, with commentary by the assessor. The board of review further submitted a copy of a letter from the appellants dated January 28, 2003, to the township assessor. The board of review also submitted a copy of Publication 122 by the Illinois Department of Revenue which discusses wildlife and fish farming. Finally, the board of review submitted several photographs of the subject property.

In the appellants' January 28, 2003, letter to the township assessor, the appellants claimed they both raise livestock and grow crops. The appellants also referred to their pond, which they planned on stocking with fish and aquatic plants. The appellants' letter claimed they had a larger farming operation

two years prior, but cut back to construct the pond. The appellants also claimed they raised turkeys, pheasants and emus in the earlier operation. No dates or other information regarding the earlier purported farming activity was submitted.

In her July 20, 2006, letter to the appellants, the township assessor stated the subject property "was viewed and would no longer be assessed as farmland." The letter stated that for a pond to be considered farm property, "it would have to be solely used for raising fish (emphasis in original)." The letter stated the assessor had seen no evidence of breeding whitetail deer, growing hay, or selling fish and aquatic plants "in the past three years".

Regarding the appellants' October 5, 2006, letter to the board of review, which includes a breakdown of the various portions of the subject and their purported usage, the assessor commented that no crops had been grown for at least 3 years, no elk were owned as of the letter's date, the deer are all the same sex (bucks) and there was no evidence of fish farming.

As to the assessor's October 31, 2006, letter to the board of review regarding the subject parcel, the assessor claimed "there have been no crops grown on this property for at least three years." Further, the assessor claimed the appellants had "provided no evidence that any kind of aquatic farming has occurred." The assessor's letter noted the three deer are kept in a small pen and are the same sex, making it impossible to breed the animals.

Regarding Publication 122 by the Illinois Department of Revenue, this document includes, under the heading "Fish farming", the statement:

Fish farming is included in the statutory definition of a farm. To qualify for fish farming, a tract must comply with the "keeping, raising, and feeding" provisions of the farm definition. Fishing may be a component of fish farming; but fishing, in itself, does not constitute fish farming. Neither is just the purchase and release of fish for fishing, a practice often referred to as "put and take," considered fish farming. Land that is actively used for the farming of fish is eligible for a farmland assessment provided its sole use has been in this or another qualified farm use for the previous two years and it is not part of a primarily residential parcel (emphasis in original).

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the

parties and the subject matter of this appeal. The Board finds the subject parcel is not entitled to a farmland classification for 2006 because no farming activity took place on any portion of the subject land in 2004 and 2005, according to the evidence in the record. The Board finds several statutes are relevant in this instance.

Section 1-60 of the Property Tax Code defines "farm" in part as:

Any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming (35 ILCS 200/1-60).

The Board finds Section 10-110 of the Property Tax Code provides as follows:

Farmland. The equalized assessed value of a farm, as defined in Section 1-60 and if used as a farm for the preceding two years, except tracts subject to assessment under Section 10-45, shall be determined as described in Sections 10-115 through 10-140... (35 ILCS 200/10-110)

Regarding the four-acre portion of the subject purportedly used for crop production, the Board finds the winter wheat was not planted until November 10, 2006, according to Hutchins' letter. The appellants' evidence indicates this portion of the subject "had been in prairie grass to establish habitat for local wildlife." The Board finds this information indicates no farming activity on this portion of the subject had occurred for the two years prior to the subject's January 1, 2006 assessment date.

Regarding the claimed two-acre pasture, the Board finds the appellants' evidence indicated that according to their January 2007, letter to the Property Tax Appeal Board, they "did get all posts set, braced, gates installed, and hired a contractor to finish stretching fence (see letter from JDL)." The letter from JDL Longhorn, dated December 12, 2006, states "Since we are 300 miles from him, we plan to finish his job when we have several more job's (sic) in the area." The appellant's receipt for their \$500 deposit with Sandy Pine Elk Farm, dated December 26, 2006,

indicates the "Balance of \$3,000 to be paid upon delivery" and makes clear the one bull and two cow elk had not been acquired yet by that date. Obviously, the elk were not being raised in 2006, 2005 and 2004. Therefore, the Board finds the planned pasture was not yet fenced on January 1, 2006 and was not used for farming purposes in accordance with Section 10-110 of the Property Tax Code (35 ILCS 200/10-110) cited above.

Regarding the penned area in which the appellants kept three deer, the Board finds no evidence in the record that deer were being raised. The appellants' October 5, 2006, letter submitted to the Winnebago County Board of Review and included in the board of review's evidence indicates that as of that date "we currently have (3) adult bucks and are in the process of selling (2) of them, which will then be replaced by (2) does." The Board thus finds no evidence in the record that "feeding, breeding and management of livestock;" or "wildlife farming" as required by Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) was occurring on any portion of subject parcel for 2006, 2005 and 2004.

Regarding the pond, the Board finds no evidence in the record that fish farming was taking place. The Board finds the appellants' January 23, 2007, letter described the current usage of the entire 10.24-acre subject parcel and states "We plan to start selling fish this summer." It is clear from this statement that no fish farming had yet occurred as of this letter's date, so it is obvious no such activity occurred in 2006, 2005 and 2004, as required by Section 1-60 of the Property Tax Code (35 ILCS 200/1-60) and Section 10-110 of the Code (35 ILCS 200/10-110) cited above. The Board also finds the record includes no evidence submitted by the appellants that any aquatic plants had been raised and harvested during 2006, 2005 and 2004. For these reasons, the Board finds no farming activity was taking place regarding the subject's pond for the instant 2006 assessment year or for two years prior to that assessment year.

The Board further finds Section 1-60 of the Property Tax Code also states

For purposes of this Code, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use (35 ILCS 200/1-60).

The Board finds the township assessor's October 31, 2006 letter to the Winnebago County Board of Review states "There have been no crops grown on this property for at least three years." In this letter, the assessor also observed "The mere keeping of deer

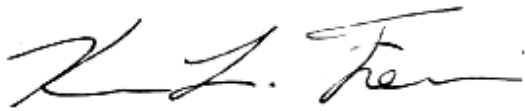
does not meet the provisions of wildlife farming as stated in Publication 122 from the Illinois Department of Revenue". In her July 20, 2006, letter to the appellants when discussing the pond for selling fish and aquatic plants, the assessor stated "I have seen no evidence of this activity in the past three years."

Based on the foregoing analysis, the Property Tax Appeal Board finds the evidence in the record indicates no portion of the subject parcel was used for farming purposes for the 2006 assessment year and the subject's classification and assessment by the board of review is correct and no reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: April 1, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the

session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.